

1 Melissa Newel (CASB #148563)
2 NEWEL LAW
3 2625 Alcatraz Ave., Suite 132
4 Berkeley, CA 94705
5 (510) 316-3827
6 mnnewel@newellawfirm.com
7 Attorney for Plaintiff
8 ROBERT JAMES MEDINA

6 PHILLIP A. TALBERT
7 United States Attorney
8 MATHEW W. PILE (WSBA #32245)
Associate General Counsel
9 Office of Program Litigation, Office 7
Social Security Administration
10 MARCELO ILLARMO (MAB #670079)
Special Assistant United States Attorney
11 160 Spear Street, Suite 800
San Francisco, CA 94105
12 (510) 970-4822
marcelo.illarmos@ssa.gov
13 Attorneys for Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT JAMES MEDINA,

No. 1:20-CV-01714 (GSA)

Plaintiff,

V.

KILOLO KIJAKAZI,
ACTING COMMISSIONER OF
SOCIAL SECURITY.

Defendant.

**STIPULATION AND ORDER FOR
AWARD AND PAYMENT OF
ATTORNEYS FEES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT (28
U.S.C. §2412(d)))**

1 IT IS HEREBY STIPULATED by and between the parties, through their undersigned
2 attorneys, subject to the approval of the Court, that Robert James Medina (“Plaintiff”) be awarded
3 attorney fees under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. §2412 (d), in the
4 amount of eight thousand and sixteen dollars and six cents (\$8,016.06). This represents
5 compensation for legal services rendered on behalf of Plaintiff by counsel in connection with this
6 civil action, in accordance with 28 U.S.C. §2412 (d).

7 After the Court issues an Order for EAJA fees to Plaintiff, the government will consider
8 the matter of Plaintiff’s assignment of EAJA fees to Plaintiff’s attorney. Pursuant to *Astrue v.*
9 *Ratliff*, 560 U.S. 586, 598 (2010), the ability to honor the assignment will depend on whether the
10 attorney fees are subject to any offset allowed under the United States Department of the
11 Treasury’s Offset Program. After the Order for EAJA fees is entered, the government will
12 determine whether they are subject to any offset.

13 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines
14 that Plaintiff does not owe a federal debt subject to offset, then the government shall cause the
15 payment of fees approved to be made payable to Melissa Newel or Newel Law (collectively
16 “Plaintiff’s counsel”), pursuant to the assignment executed by Plaintiff. Any and all payments
17 made shall be delivered to Plaintiff’s counsel.

18 This stipulation constitutes a compromise settlement of Plaintiff’s request for EAJA
19 attorney fees and does not constitute an admission of liability on the part of Defendant under
20 EAJA. Payment of the agreed amount shall constitute a complete release from, and bar to, any
21 and all claims that Plaintiff and/or Plaintiff’s counsel may have relating to EAJA attorney fees
22 and expenses in connection with this action.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

This award is without prejudice to the rights of Plaintiff's counsel to seek Social Security Act attorney fees under 42 U.S.C. §406(b), subject to the provisions of the EAJA.

Dated: December 1, 2022

Respectfully submitted,

NEWEL LAW

By: *Melissa Newell*

Melissa Newel
Attorney for Plaintiff
ROBERT JAMES MEDINA

Dated: December 1, 2022

PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Office of Program Litigation, Office 7
Social Security Administration

By: Marcelo Illarmo*

MARCELO ILLARMO
(*Authorized by email dated 12/1/2022)
Special Assistant U.S. Attorney
Attorneys for Defendant

ORDER

IT IS HEREBY ORDERED that, pursuant to the Equal Access to Justice Act, 28 U.S.C. §2412(d), attorney fees in the amount of **eight thousand and sixteen dollars and six cents (\$8,016.06)** be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: **December 1, 2022**

/s/ **Gary S. Austin**
UNITED STATES MAGISTRATE JUDGE